

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

DONALD ROBIN BARREN,

Petitioner,

vs.

HOWARD SKOLNIK, *et al.*,

Respondents.

2:09-cv-01202-RLH-VCF

**ORDER**

This closed action is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner. By order filed August 15, 2012, this Court denied the habeas corpus petition and also denied petitioner a certificate of appealability. (ECF No. 71). Judgment was entered on August 15, 2012. (ECF No. 72). On October 9, 2012, petitioner filed an application for a certificate of appealability. (ECF No. 73). Although captioned for the Ninth Circuit, petitioner mailed his application to this Court.

In order to proceed with his appeal, petitioner must receive a certificate of appealability. 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22; 9<sup>th</sup> Cir. R. 22-1; *Allen v. Ornoski*, 435 F.3d 946, 950-951 (9<sup>th</sup> Cir. 2006); *see also United States v. Mikels*, 236 F.3d 550, 551-52 (9th Cir. 2001). Generally, a petitioner must make “a substantial showing of the denial of a constitutional right” to warrant a

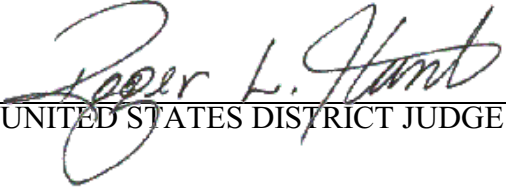
1 certificate of appealability. *Id.*; 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 483-84  
2 (2000). “The petitioner must demonstrate that reasonable jurists would find the district court’s  
3 assessment of the constitutional claims debatable or wrong.” *Id.* (quoting *Slack*, 529 U.S. at 484). In  
4 order to meet this threshold inquiry, the petitioner has the burden of demonstrating that the issues are  
5 debatable among jurists of reason; that a court could resolve the issues differently; or that the  
6 questions are adequate to deserve encouragement to proceed further. *Id.*

7 In the present case, the habeas corpus petition was denied on the merits. (ECF No. 71). As  
8 noted in the order denying the petition, this Court has determined that no reasonable jurist could  
9 conclude that the Court’s order denying the petition was in error. Petitioner is not entitled to a  
10 certificate of appealability.

11 **IT IS THEREFORE ORDERED** that the application for a certificate of appealability (ECF  
12 No. 73) is **DENIED**.

13 **IT IS FURTHER ORDERED** that the Clerk shall send a copy of this order to the United  
14 States Court of Appeals for the Ninth Circuit.

15 Dated this 12<sup>th</sup> day of October, 2012.

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18 UNITED STATES DISTRICT JUDGE  
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